

UNITED STATES DISTRICT COURT

Northern District of Iowa

UNITED STATES OF AMERICA
V.

LYNCH FAMILY COMPANIES, INC.

JUDGMENT IN A CRIMINAL CASE
(For Organizational Defendants)

CASE NUMBER: **0862 6:22CR02043-001**

ORIGINAL JUDGMENT
 AMENDED JUDGMENT

Date of Most Recent Judgment: **February 10, 2023**

Marc Krickbaum and Peter Eugene Deegan, Jr.
Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

pleaded guilty to count(s) **1 of the Information filed on July 28, 2022**
 pleaded nolo contendere to count(s) _____ which was accepted by the court.
 was found guilty on count(s) _____ after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
7 U.S.C. § 221	Failing to Comply with an Order of the Secretary of Agriculture	March 2021	1

The defendant organization is sentenced as provided in pages 2 through 5 of this judgment.

The defendant organization has been found not guilty on count(s) _____
 Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's
Federal Employer I.D. No.: **42-1081789**

Defendant Organization's Principal Business Address:

**331 Third Street NW
Waucoma, Iowa 52171**

April 13, 2023

Date of Imposition of Judgment

Signature of Judge

**C.J. Williams
United States District Court Judge**

Name and Title of Judge

April 13, 2023

Date

Defendant Organization's Mailing Address:

**331 Third Street NW
Waucoma, Iowa 52171**

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PROBATION

The defendant organization is hereby sentenced to probation for a term of:

5 years on Count 1 of the Information.

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organization's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

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SPECIAL CONDITIONS OF SUPERVISION

The defendant must comply with the following special conditions as ordered by the Court and implemented by the United States Probation Office:

1. The defendant organization's management shall not knowingly violate, cause a violation of, or direct a violation of, to the material disadvantage of any supplier of livestock, either (a) the terms of the 2017 and 2021 consent decisions with the USDA or (b) any statute or regulation in the Packers and Stockyard Act of 1921, 7 U.S.C. § 201 *et seq.* This includes but is not limited to the statutory and regulatory provisions ensuring against unlawful and deceitful practices under Title II, Title III, and Title IV of the Act and their associated regulations.
2. The defendant organization shall undertake good faith compliance with the "Lynch Livestock 10 Point Pork Marketing Compliance Excellence Plan" of April 5, 2022.
3. The defendant organization shall notify the probation office immediately upon learning of any material adverse change in its business or financial condition or prospects, or the commencement of any bankruptcy proceeding, major civil litigation, criminal prosecution, or administrative proceeding against the defendant organization, or any investigation or formal inquiry by governmental authorities regarding the defendant organization.
4. The defendant organization will be subject to regular or unannounced examinations of its books, records, and business premises by the probation office or experts engaged by the Court; and interrogation of knowledgeable individuals within the organization. The defendant organization is responsible for payment and costs of any such experts.

Upon a finding of a violation of supervision, I understand the Court may: (1) revoke supervision; (2) extend the term of supervision; and/or (3) modify the condition of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

Defendant

Date

United States Probation Officer/Designated Witness

Date

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CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS \$ 400 (paid)	\$ 196,000 (paid)	\$ 3,040,004.55 (paid)

*The allocation of restitution to the victims is deferred to * _____ An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

*The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
*Victims, the amounts of restitution, and the priority or percentage are listed in an Appendix to this Judgment that has been filed under seal			

TOTALS \$ _____ \$ _____

Restitution amount ordered pursuant to plea agreement \$ 3,040,004.55

The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:

the interest requirement is waived for fine restitution.

the interest requirement for the fine restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

A \$ **3,236,404.55** due immediately;

not later than _____, or
 in accordance with C or D below; or

B Payment to begin immediately (may be combined with C or D below); or

C Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or

D Special instructions regarding the payment of criminal monetary penalties:

The \$400 special assessment was paid on August 29, 2022, receipt # IAN110000665.

A prejudgment payment of \$196,000 was made on August 29, 2022, receipt # IAN110000665.

A prejudgment payment of \$1,800,000 was made on August 29, 2022, receipt # IAN110000666.

It is ordered that the defendant organization receive aggregate credit of \$1,240,004.55.

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant organization shall pay the cost of prosecution.

The defendant organization shall pay the following court cost(s):

The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

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STATEMENT OF REASONS

The court adopts the presentence report and guideline applications **WITHOUT CHANGE**.

OR

The court adopts the presentence report guideline applications **BUT WITH THESE CHANGES**:

Guideline Range Determined by the Court:

The defendant organization is a criminal purpose organization pursuant to U.S.S.G. §8C1.1.

OR

The calculation of the guideline fine range is unnecessary because the defendant organization cannot pay restitution pursuant to U.S.S.G. §8C2.2(a).

OR

Total Offense Level: 12

Base Fine: \$ 70,000

Total Culpability Score: 6

Fine Range: \$ 84,000 to \$ 168,000

Disgorgement amount of \$ _____ is added to fine pursuant to U.S.S.G. §8C2.9.

Fine offset amount of \$ _____ is subtracted from fine pursuant to U.S.S.G. §8C3.4.

Fine waived or below the guideline range because of inability to pay pursuant to U.S.S.G. §8C3.3.

RESTITUTION DETERMINATIONS

Total Amount of Restitution: \$ 3,040,004.55

For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).

For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).

For offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).

Restitution is not ordered for other reasons:

Partial restitution is ordered, pursuant to 18 U.S.C. § 3553(c) for the following reason(s):

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STATEMENT OF REASONS

The sentence is within the guideline range and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

The sentence departs or varies from the guideline range:

upon motion of the government, as a result of a defendant's substantial assistance, or

for the following specific reason(s):
As agreed upon by the parties, the Court varied upward and imposed a fine above the advisory guideline fine range based upon the systematic nature of the fraud.